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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,672	12/01/2000	Mai-lan Tomsen	005217.P008	5562
33318	7590	03/27/2006	EXAMINER	
DIGEO, INC. 8815 122ND NE KIRKLAND, WA 98033			MANNING, JOHN	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/728,672

Applicant(s)

TOMSEN, MAI-LAN

Examiner

John Manning

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5,7-9 and 23-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-9 and 23-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/19/05</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 01/06/2006 have been fully considered but they are not persuasive.

Applicant argues, "[i]ndependent claims 1 and 23 both recite storing context information relating to the transaction that indicates a context of the user within the transaction. Neither Alloul nor Kitsukawa, nor the combination of Alloul and Kitsukawa, disclose or suggest this limitation". Kitsukawa fails to teach context information in conjunction with a shopping cart. Kitsukawa does, however, teach context information with respect to a product. The disclosed advertising information is interpreted to be a broadcast segment by virtue of the fact that is segmented data transmitted over a broadcast network (Col 5, Lines 29-55; Col 7, Lines 45-47).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Applicant argues, "...Kitsukawa teaches away from Alloul. Kitsukawa involves the deferred viewing of stored advertising information. A person who has deferred the viewing of an advertisement would not be motivated to initiate and subsequently defer a transaction

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relating to the advisement. To the contrary, presumably one who has deferred viewing an advertisement has not yet been persuaded to initiate a purchase transaction. Otherwise, there would be no need for further viewing of the advertisement". Alloul teaches a shopping cart and the retrieval of data related to products. Kitsukawa discloses storing advertisement information, which is a mechanism for electronically ordering the associated item (Col 3, Lines 4-5). Consequently, the user defers a transaction relating to the advisement.

Applicant argues, "[t]here is no teaching, suggestion, or motivation provided by Kitsukawa for capturing, storing, or retrieving the snapshot, as required by claim 40". The Examiner interprets the advertising information to a snapshot of a "broadcast segment". Kitsukawa discloses capturing (Col 6, Lines 51-54), storing (Col 7, Lines 45-47), and retrieving (Col 7, Lines 49-53) the snapshot.

Applicant argues that Kitsukawa "... even if Kitsukawa could somehow be considered sufficient to meet the limitation of capturing a snapshot of a broadcast segment, it does not do so 'in response to the command to defer the transaction,' as required by claim 40". The advertising information is selected for storage by the user, where the advertising information is a mechanism for electronically ordering the associated item (which meets the recited limitation).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 7-9, 23-28, 30-36 and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitsukawa et al in view of Alloul et al (US Pat No 6,032,130).

In regard to claim 1, the claimed steps of "presenting a broadcast segment as part of an interactive television transmission receiving with the broadcast segment" and "receiving with the broadcast segment supplemental information related to a transaction involving the broadcast segment" are met by Figures 2-3 and 5. "The advertising information may be received simultaneously with the scenes in which the identified items corresponding to the advertising information appear, but the embodiment is not so limited. Furthermore, the advertising information may be received prior to receipt of the scenes or television programs in which the identified items corresponding to the advertising information appear, in which case the advertising information is stored along with timing data that links the advertising information to the corresponding scene or program" (Col 6, Lines 51-60). Kitsukawa discloses responsive to a first command received from a user input device, locally storing the supplemental information received

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prior to the first command and responsive to a second command received from the user input device and subsequent to presenting at least a portion of the broadcast segment, retrieving the locally-stored information associated with the transaction and using the retrieved information to resume the transaction (See Figure 5-7). "If the advertising information is selected for storage, operation continues at step 416, at which the advertising information is stored. The stored advertisement mode of one embodiment causes specified portions of the advertising information to be stored. The stored advertising information may be recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears, but the embodiment is not so limited" (Col 7, Lines 45-53). The stored supplemental information is equivocal to the supplemental information. "In the displayed program scene 502, for example, advertising information is available for the chair 511 in which the actor 590 is sitting by selecting the corresponding chair icon advertising mark 521. Advertising information is available for the hat 512 worn by the actor 590 by selecting the corresponding hat icon advertising mark 522. Advertising information is available for the hat 513 worn by the child actor 592 by selecting the corresponding hat icon advertising mark 523" (Col 8, Lines 58-66). Kitsukawa fails to disclose placing items in a shopping cart for display the items, initiating a transaction, partially conducting the transaction and automatically deferring the transaction and responsive to a users selection, retrieving context information to resume the partially completed transactions. Alloul teaches placing items in a shopping cart for display the items, initiating a transaction, partially conducting the transaction and automatically deferring the

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transaction and responsive to a users selection, retrieving context information to resume the transaction so as to give the user more time to save up money to complete the transaction and to organize deferred partially completed transactions (Col 8, Lines 30-45; Col 6, Lines 6-19). Consequently, it would have been obvious to one of ordinary skill in the art to modify Kitsukawa with placing items in a shopping cart for display the items and responsive to a users selection, retrieving context information to resume the transaction so as organize deferred transactions.

In regard to claim 3, the claimed step of "the broadcast segment comprises a commercial" is met by that discussed above for claim 1.

In regard to claim 5, Kitsukawa discloses storing advertisement and recalling for the user to view a later time. The advertisement is "streamed" to the display device from the storage.

In regard to claim 7, the claimed steps of "prompting for a selection to complete the transition or to view additional context information" and "in response to the selection completing the transaction or providing the additional context information" are met by Figure 4-6. "The advertising information for a particular item is selected for display by moving a cursor 599 or other pointer to the corresponding advertising mark and selecting the mark. The cursor control comprises a remote control device and a mouse, but the embodiment is not so limited. The advertising information displayed for an item may comprise, but is not limited to, manufacturer's information, dealer information, service information, specification information, cost information, and availability" (Col 8, Lines 41-49).

In regard to claim 8, the claimed step of “prompting for user selection to conduct the transaction or to defer the transaction” is met by Figure 5-7 of Kitsukawa. “If the advertising information is selected for storage, operation continues at step 416, at which the advertising information is stored. The stored advertisement mode of one embodiment causes specified portions of the advertising information to be stored. The stored advertising information may be recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears, but the embodiment is not so limited” (Col 7, Lines 45-53).

In regard to claim 9, Kitsukawa discloses that the advertisement information may include electronic links over the Internet to product manufactures and dealers. The reference is silent with respect to the system connecting to a communications network. However, the examiner takes Official Notice to a system connecting to a communications network so as to connect to electronic links. Consequently, it would have been obvious to one of ordinary skill in the art to implement Kitsukawa with connecting to a communications network so as to connect to electronic links.

In regard to claim 23, the claimed steps of “receiving a broadcast segment including supplemental information sufficient for conducting at least a portion of a transaction” is met by Figures 2-3 and 5. “The advertising information may be received simultaneously with the scenes in which the identified items corresponding to the advertising information appear, but the embodiment is not so limited. Furthermore, the advertising information may be received prior to receipt of the scenes or television programs in which the identified items corresponding to the advertising information



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appear, in which case the advertising information is stored along with timing data that links the advertising information to the corresponding scene or program" (Col 6, Lines 51-60). The claimed step of "notifying a user that the transaction is available" is met by Figure 3-4. "If an advertisement mode is selected, operation continues at step 408, at which the viewer is alerted when advertising information is available for an item displayed in a scene of the television program broadcast" (Col 7, Lines 9-13). The claimed steps of "receiving a user command to defer the transaction", "storing the supplemental information", "storing context information relating to the transaction", "deferring the transaction", "receiving a user command to resume the deferred transaction" and "retrieving the stored supplemental information and context information" are met by Figures 2-3 and 5. "If the advertising information is selected for storage, operation continues at step 416, at which the advertising information is stored. The stored advertisement mode of one embodiment causes specified portions of the advertising information to be stored. The stored advertising information may be recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears, but the embodiment is not so limited" (Col 7, Lines 45-53). The claimed step of "using the supplemental information and context information to resume the deferred transaction from the point at which it was deferred and restore the user's context within the transaction" is met by Figures 5-7. "The advertising information for a particular item is selected for display by moving a cursor 599 or other pointer to the corresponding advertising mark and selecting the mark. The cursor control comprises a remote control device and a mouse, but the embodiment is

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not so limited. The advertising information displayed for an item may comprise, but is not limited to, manufacturer's information, dealer information, service information, specification information, cost information, and availability" (Col 8, Lines 41-49). "In the displayed program scene 502, for example, advertising information is available for the chair 511 in which the actor 590 is sitting by selecting the corresponding chair icon advertising mark 521. Advertising information is available for the hat 512 worn by the actor 590 by selecting the corresponding hat icon advertising mark 522. Advertising information is available for the hat 513 worn by the child actor 592 by selecting the corresponding hat icon advertising mark 523" (Col 8, Lines 58-66). Kitsukawa fails to disclose placing items in a shopping cart for display the items, initiating a transaction, partially conducting the transaction and automatically deferring the transaction and responsive to a users selection, retrieving context information to resume the partially completed transactions. Alloul teaches placing items in a shopping cart for display the items, initiating a transaction, partially conducting the transaction and automatically deferring the transaction and responsive to a users selection, retrieving context information to resume the transaction so as to give the user more time to save up money to complete the transaction and to organize deferred partially completed transactions (Col 8, Lines 30-45; Col 6, Lines 6-19). Consequently, it would have been obvious to one of ordinary skill in the art to modify Kitsukawa with placing items in a shopping cart for display the items and responsive to a users selection, retrieving context information to resume the transaction so as organize deferred transactions.

In regard to claims 24 and 28, Kitsukawa discloses that the supplemental information comprises storing a URL of a website. "In one embodiment, the advertising information may comprise electronic catalogs that contain information on additional products and services offered by the particular manufacturer and dealer, electronic links to electronic catalogs, electronic links to product manufacturers and dealers that comprise electronic mail and voice massaging links, and electronic links over the Internet to the Web pages of product manufacturers and dealers, but the embodiment is not so limited" (Col 8, Lines 49-57).

In regard to claim 25, Kitsukawa discloses storing timing information which is interpreted to be a trigger. The reference fails to explicitly disclose that the timing information is an ATVEF trigger. However, the examiner takes Official Notice that is notoriously well known in the art to use ATVEF triggers so as to provide interactive video that is interoperable. Consequently, it would have been obvious to one of ordinary skill in the art to implement Kitsukawa so as to provide interactive video that is interoperable.

In regard to claim 26, the claimed step of "storing the supplemental information comprises locally storing the supplemental information within a set top box" is met by Figure 1 (See Col 7, Lines 40-53).

In regard to claim 27, as discussed above for claim 23, the user may enter information into storage for later retrieval.

Claims 30-32 are met by that discussed for claim 5.

In regard to claim 33, Alloul discloses storing a current action within a set of actions of the transaction such as payment method (see Col 8, Lines 53-63).

In regard to claim 34, the claimed step of "storing the context information comprises locally storing the context information within a set top box" is met by Figure 1. "The computer system 100 further comprises a random access memory (RAM) or other dynamic storage device in main memory 104 coupled to the bus 101 for storing information and instructions to be executed by the processor 109. The computer system 100 further comprises a read only memory (ROM) 106, or other static storage device, coupled to the bus 101 for storing static information and instructions for the processor 109. A data storage device 107, such as a magnetic disk or optical disk and a corresponding disk drive, is coupled to the bus 101" (Col 4, Lines 31-41).

In regard to claim 35, the claimed step of "presenting an audio indicator of the availability of the transaction" is disclosed. "If an advertisement mode is selected, operation continues at step 408, at which the viewer is alerted when advertising information is available for an item displayed in a scene of the television program broadcast. The viewer alert comprises a tone and at least one displayed mark, wherein the displayed mark may be superimposed over the broadcast of the television program on the screen, but the embodiment is not so limited" (Col 7, Lines 9-16).

Claim 36 is met by that discussed above for claim 23.

In regard to claim 38-39, Kitsukawa in view of Alloul automatically defer (Alloul: automatically deferring) the transaction in response to the completion of the broadcast

segment (Kitsukawa: Broadcast segment: Col 7, Lines 41-53), where the advertising information is used for live television commercials (Col 6, Lines 46-58).

In regard to claims 40-41, the claimed steps of "receiving a broadcast segment including supplemental information for conducting a transaction", "receiving a command to defer the transaction", "in response to the command to defer the transaction capturing a snapshot of at least a portion of the broadcast segment relating to the transaction", "locally storing the snapshot within a set top box" and "deferring the transaction" are met by Figures 2-3 and 5. "The advertising information may be received simultaneously with the scenes in which the identified items corresponding to the advertising information appear, but the embodiment is not so limited. Furthermore, the advertising information may be received prior to receipt of the scenes or television programs in which the identified items corresponding to the advertising information appear, in which case the advertising information is stored along with timing data that links the advertising information to the corresponding scene or program" (Col 6, Lines 51-60). The claimed steps of "receiving a command to resume the deferred transaction", "retrieving the locally-stored snapshot" and "presenting the retrieved snapshot to restore a user's context in the transaction" are met by Figure 5-7. "If the advertising information is selected for storage, operation continues at step 416, at which the advertising information is stored. The stored advertisement mode of one embodiment causes specified portions of the advertising information to be stored. The stored advertising information may be recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears, but the embodiment is

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not so limited" (Col 7, Lines 45-53). Kitsukawa fails to disclose placing items in a shopping cart for display the items, initiating a transaction, partially conducting the transaction and automatically deferring the transaction and responsive to a users selection, retrieving context information to resume the partially completed transactions.

Alloul teaches placing items in a shopping cart for display the items, initiating a transaction, partially conducting the transaction and automatically deferring the transaction and responsive to a users selection, retrieving context information to resume the transaction so as to give the user more time to save up money to complete the transaction and to organize deferred partially completed transactions (Col 8, Lines 30-45; Col 6, Lines 6-19). Consequently, it would have been obvious to one of ordinary skill in the art to modify Kitsukawa with placing items in a shopping cart for display the items and responsive to a users selection, retrieving context information to resume the transaction so as organize deferred transactions.

In regard to claim 42, Alloul discloses that the user may add or remove items for the shopping cart, by receiving user input.

In regard to claim 43, the shopping cart disclosed in Alloul provides the user with transaction status information.

4. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitsukawa et al in view of Alloul et al and further in view of Voyticky et al.

In regard to claims 29, the combined teaching fails to explicitly disclose storing content retrieved from websites. Voyticky teaches storing content retrieved from websites so as to provide the user with additional information regarding the product.

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"The server 107 then determines an assortment of products that were displayed on the user's television 102 when the user pressed the event button on the remote 105, for each press of the event button. This is accomplished by referencing a previously inputted product data base that indicates which products appear in the program being watched, and the times that they appear (measured in program time). The central server 107 then sends information about this assortment of products back to the home computer 106 via the Internet. This can be accomplished, for example, by sending a web page or database to the home computer 106" (Col 6, Lines 43-55). Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching to retrieve content from websites so as to provide the user with additional information regarding the product.

5. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitsukawa et al in view of Alloul et al and further in view of Von Kohorn (US Pat No 5,227,874).

In regard to claim 37, the combined teaching discloses displaying a list of list of deferred transactions. However, the combined teaching fails to disclose a list of previously completed and cancelled transactions. Von Kohorn teaches generating a purchase history by storing information indicative of previous user transactions so as to allow for the targeting of future advertisements. Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching generating a list of previously completed and cancelled transactions for the stated advantage.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

March 15, 2006



**JOHN MILLER**  
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